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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/894,211	07/30/1997	MORDECHAI HAMMER	2036.018PCT	8754

7590 08/27/2007  
Mordechai Hammer  
P O Box 6749 AIRMAIL  
RAMAT GAN, 52167  
ISRAEL

EXAMINER
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WALSH, JOHN B

ART UNIT	PAPER NUMBER
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2151

MAIL DATE	DELIVERY MODE
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08/27/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

08/894,211

Applicant(s)

HAMMER, MORDECHAI

Examiner

John B. Walsh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 8-12, 16-18, 23, 24, 36, 38, 40-42, 45, 47 and 50 is/are rejected.
- 7) ☒ Claim(s) 6, 7, 13-15, 19-22, 25-35, 37, 39, 43, 44, 46, 48 and 49 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Specification*

1. Claim 50 is objected to because the lines are crowded too closely together, making reading difficult. Substitute claims with lines one and one-half or double spaced on good quality paper are required. See 37 CFR 1.52(b).

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 5, 8, 16-18, 36, 38, 41, 42, 45, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,388,033 to Pipes in view of U.S. Patent No. 5,040,941 to Wilding.

Pipes discloses a motion transmission and multiplication system (10) comprising: at least first 12 and second 14 elements extending in the same orientation; and at least a first means 62 linking said first 12 and second 14 elements and being movable with respect to at least one of them, said first linking means 62 being arranged on said first element 12 such that when said first linking means 62 is provided with a driving motion (by pinion 22) in a direction of said orientation, said first 12 and second 14 elements are provided with a driven motion with respect to each other. First element 12 telescopically receives second element 14 and first linking means

62 is a flexible member. The speed control is the motor. Third element 16 is telescopically received in the second element 14. Linking means 62 is enclosed in the first element 12. Rollers (35, 43, 51, 57) guide the elements in tracks (36, 44, 52, 58). System 10 is a conveyor. The room that the system is used in can be illuminated. A toy is anything that can be used for amusement. Any object can be a toy since it depends upon the intent of the person using the device. The word toy does not provide any structural limitation upon the invention. The movement of the conveyor is not dependent upon gravity.

Pipes does not disclose that the motion is controllably reversible.

Wilding teaches the use of a controller 25 for the purpose of controlling the movement of a conveyor 30 for the purpose maintaining consistent movement of the product being conveyed.

It would have been obvious to a person having ordinary skill in the art at the time of applicant's invention to modify the device of Pipes as taught by Wilding for the purpose of maintaining consistent movement of the product being conveyed.

4. Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,388,033 Pipes in view of U.S. Patent No. 4,735,373 to Wozniak.

Pipes discloses a motion transmission and multiplication system (10) comprising: at least first 12 and second 14 elements extending in the same orientation and have anterior and posterior ends. A tool or other object can be connected to the system. At least a first means 62 links the first 12 and second 14 elements and is movable with respect to at least one of them. The first linking means 62 is arranged on the first element 12 such that when the first linking means 62 is provided with a driving motion (by pinion 22) in a direction of the orientation, the first 12 and

second 14 elements are provided with a driven motion with respect to each other. It is considered inherent in the system of Pipes that the motion is controllably reversible.

Pipes does not disclose that the system is "hand-movable".

Wozniak teaches that the use of a hand crank or a motor is a matter of design choice in the field of conveyors, see col. 1, lines 53 and 54. It is considered that the use of a hand crank makes the system "hand-movable" in accordance with applicant's disclosure.

It would have been obvious to a person having ordinary skill in the art at the time of applicant's invention to modify the device of Pipes as taught by Wozniak as a matter of design choice.

5. Claims 1-3, 5, 8-12, 16-19, 23, and 40 are rejected under 35U.S.C. 103(a) as being unpatentable over U.S. Patent No, 1,456,478 to White in view of U.S. Patent No. 5,040,941 to Wilding.

White discloses a motion transmission and multiplication system comprising: at least first 20 and second 23 elements extending in the same orientation; and at least a first flexible means 43 linking said first 20 and second 23 elements and being movable with respect to at least one of them, said first flexible linking means 43 being arranged on said first element 20 such that when said first flexible linking means 43 is provided with a driving motion (by gearwheels 46, 48) in a direction of said orientation, said first 20 and second 23 elements are provided with a driven motion with respect to each other. First 20 and second 23 elements are rigid and telescope in side-by-side tracks. The first, second and third elements are rigid and driven by screw 16. First 20, second 23, and third 24 elements are shutters.

White does not disclose the use of a controller.

Wilding teaches the use of a controller 25 for the purpose of controlling the movement of a linear device (conveyer 30) for the purpose maintaining consistent movement of the product being conveyed.

It would have been obvious to a person having ordinary skill in the art at the time of applicant's invention to modify the device of White as taught by Wilding for the purpose of maintaining consistent movement of the device.

#### ***Allowable Subject Matter***

6. Claims 6, 7, 13-15, 19-22, 25-35, 37, 39, 43, 44, 46, 48, and 49 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

7. Applicant's arguments filed February 5, 2007 have been fully considered but they are not persuasive.

As concerns claim 1 (Pipes in view of Wilding), In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., hand movable, can be moved by hand) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Furthermore, the applicant has recited at page 9 of the response

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that the term “hand-movable” is defined as “may” be moved by hand, which would result in the limitation not bearing a positive limitation.

As concerns the applicant’s arguments to White in view of Wilding, the applicant argues “the requirement in White for wheels carrying the chains is not a requirement of the present invention” (page 6 of response). The prior art discloses the invention as claimed and the fact that it discloses additional structure not claimed is irrelevant.

In response to applicant's argument that Wilding is not applicable to White, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

The applicant argues Sandberg adds nothing to the system of telescopic motion. White and Wilding are the basis for the rejection of the claim that disclose the system of telescopic motion. The Sandberg reference teaches the limitation of a hand crank.

As concerns the applicant’s argument where the linking means is “arranged on the elements”, the claims have been given the broadest reasonable interpretation and the prior art of White meets the claim limitations since the linking means is “arranged on” the elements via the intermediate structure of the system.

As concerns claim 50, in response to applicant's argument that the references fail to show certain features of applicant’s invention, it is noted that the features upon which applicant relies (i.e., a hand-movable slidable device that can multiply in a direction inline the movement of a

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sliding hand movement while moving with the same hand to any other direction while sliding and even by a leg sliding movement) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

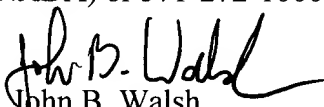
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John B. Walsh whose telephone number is 571-272-7063. The examiner can normally be reached on Monday-Thursday from 7:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on 571-272-3440. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
John B. Walsh  
Primary Examiner  
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